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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,430	03/16/2004	John Kim	81095567	3073

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MILLER LAW GROUP, PLLC  
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WEST LAWN, PA 19609

EXAMINER
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SKURDAL, COREY NELSON

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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02/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/801,430

Applicant(s)

KIM ET AL.

Examiner

COREY N. SKURDAL

Art Unit

3782

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,10 and 11 is/are rejected.
- 7) ☐ Claim(s) 6-9, 12-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/22/2007 has been entered.

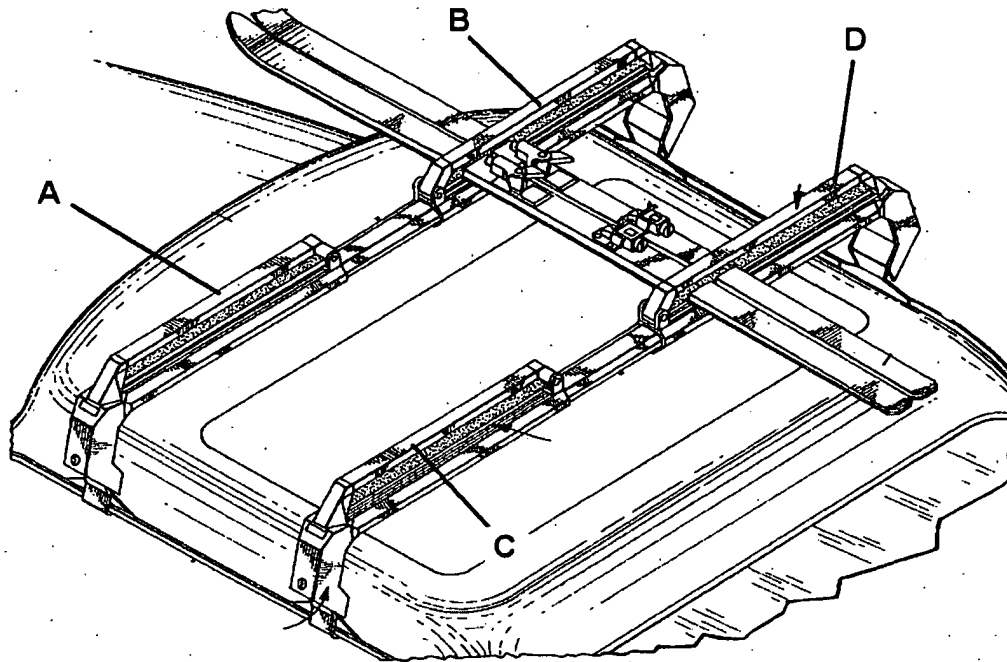
### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Olliges (US 4,728,019). Olliges discloses a roof rack apparatus comprising: (see Examiners Figure 1 below) first and second laterally disposed front side rail members A/B; first and second laterally disposed rear side rail members C/D, each side rail member being pivotally movable independently of each other; multiple storage surfaces defined at lead line 136 under each side rail; and wherein each side rail includes a hinge bar 128 to permit pivotal movement between a raised basket forming position and a lowered collapsed position.



**EXAMINERS FIGURE 1**

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkins (GB 1,043,227).

Parkins discloses a roof rack apparatus comprising: first and second laterally disposed front side rail members 24/25 located on opposing sides of the automobile, each side rail being pivotally movable independently of each other; a storage surface 2

defined between the side rails, wherein hinge bars 27 pivotally support the side rails members between a raised basket forming position ( Figure 1) and a lowered collapsed position ( Figure 2); and upright front and rear transverse rail members 21. Parkins does not have first and second laterally disposed rear side rail members. However, as vehicles come in various shapes and sizes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second storage rack taught by Parkins on to a large vehicle having greater roof space, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In doing so a pair of laterally disposed rear side rail members would be defined on the roof of the vehicle, such that four side rail members, each being independently movable relative to the other, would be defined.

5. Claims 1, 3-5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Audet (US 4,826,387) in view of Parkins (GB 1,043,227).

Audet discloses the invention substantially as claimed including: first and second laterally opposed storage surface devices (disposed on each side of the centerline 20), each storage surface device 40 being laterally movable relative to the other said device along the side of the vehicle. Audet does not disclose four independently movable side rail members as claimed. However, Parkins teaches a roof rack apparatus wherein side rail members 24/25 are provided, said side rail members being disposed on opposite sides of the vehicle, and being pivotally attached to the carrier by hinge bar 27 between a raised position (Figure 1) and a collapsed position (Figure 2). It would have been

obvious to one skilled in the art to provide Audet with the side rail members of Parkins and to attach them to the rails 16 in order to increase the functionality of the Audet rack by allowing the user to increase the storage capacity of the roof rack when in the position shown in Figure 2. The combination of Audet and Parkins still lacks a set of front side rail members.

However, as vehicles come in various shapes and sizes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second storage rack of modified Audet on to large vehicle having greater roof space, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In doing so a pair of laterally disposed front side rail members would be defined on the roof of the vehicle, such that four side rail members, each being independently movable relative to the other, would be defined.

Regarding claims 3 and 4, modified Audet discloses front and rear transverse upright rail members 31 which form help form a basket with said side rail members, said transverse rail members being considered pivotally movable in a longitudinal direction at pivot 26 between a raised basket forming position (Audet Figure 3) and a lowered collapsed position (Audet Figure 4).

Regarding claim 11, the modified Audet device discloses track members 23, a plurality of longitudinally extending support members 15; and a pair of connecting members 22 slideably received in guide rails 16 mounted to said vehicle roof portion,

each connecting member pivotally connected to the track members at 26, to permit pivotal and lateral movement along the side of the vehicle.

***Allowable Subject Matter***

6. Claims 6-9 and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 18-20 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to the claim have been considered but are moot in view of the new ground(s) of rejection. Parkins clearly discloses side rail members which pivot and collapse inwardly toward the vehicle. Regarding Applicants argument that there is no motivation or suggestion to provide four independently movable side rail members, Examiner maintains that the cited combination meet this claimed structure. As both Parkins and Audet disclose roof racks which extend across only a portion of the roof, it considered obvious by Examiner that on a larger vehicle two racks could be provided so as to satisfy the claim. Regarding claim 4, Applicant states that the transverse rail members are pivotally movable in a longitudinal direction which is opposite the direction of the pivotal movement of the side rail members. However, Applicant drawings indicate the opposite- that the directions are the same and as such the rejection has been applied as noted above.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS  
1/30/08

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER